

DEPARTMENT OF BENEFIT PAYMENTS



April 30, 1974

ALL-COUNTY LETTER NO. 74-74

OBSOLETE

TO: ALL COUNTY WELFARE DIRECTORS

Superseded by ACL #77-15

317-77

SUBJECT: FOOD STAMP PROGRAM - RETROACTIVE BENEFITS

The United States Supreme Court on December 10, 1973 refused to hear an appeal of a federal court's decision in the case of Bermudez, et al. v. United States Department of Agriculture, et al.

Attached is a copy of regulations adopted on an emergency basis effective April 26, 1974, to implement the decision of the federal court. These regulations apply only to those cases in which a food stamp fair hearing was requested on or after July 31, 1972. Those heads of households that have had food stamp benefits wrongfully delayed, denied or terminated are eligible to receive retroactive benefits only if the head of the household is currently a participant in the program. Retroactive benefits will be made in accordance with the state fair hearing decision based on the household composition at the time the wrongful action occurred, regardless of current household composition.

Although technically there is no benefit loss through nonusage of an ATP, there may be loss of benefits if the ATP was made nonnegotiable through county administrative error. In such case a fair hearing will be necessary to determine retroactive benefits.

Since retroactive benefits are made by adjusting current purchase requirements, no adjustments can be made for those recipients who have a zero purchase requirement.

Please direct any questions to Richard Havnen, Acting Chief, Food Stamp Management Bureau at (916) 445-6907.

Sincerely yours,

DENNIS O. FLATT
Deputy Director
Welfare Program Operations

cc: FNS, USDA
CWDA

Attachment

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

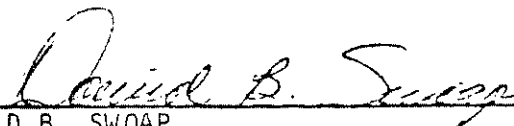
(Pursuant to Government Code Section 11380.1)

63-408 COMPLAINTS, APPEALS AND FAIR HEARINGS (Continued)

63-408

- a. The amount of benefits restored during the month by household name and case number.
- b. The reason or cause which resulted in the lost benefits.
- c. The period in which the lost benefits were incurred.
- d. The total number of cases during the month in which a hearing authority authorized retroactive benefits and the total amount of such benefits.

There are no State mandated costs in this regulation that require reimbursement under Section 2231 of the Revenue and Taxation Code because this regulation implements federally mandated requirements that retroactive food stamp benefits be granted to eligible households.


DAVID B. SWOAP
Director of Benefit Payments

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FOILING ADMINISTRATIVE REGULATION
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

63-408 COMPLAINTS, APPEALS AND FAIR HEARINGS (Continued)

63-408

.5 Adjustments After Fair Hearing Decision

As a result of a fair hearing decision, retroactive adjustments in favor of the household will be permitted as follows:

- .51 Cash refunding to the household of any overcharge made in purchase requirement as a result of administrative error. However, if the household owes an unpaid balance on a claim determined by the state or county as having resulted from fraudulent participation, the amount overcharged the household shall be offset against the balance due on the claim before the refund is made. (Also see Section 63-615.55.)
- .52 As the result of a fair hearing decision that a household was eligible for food stamps which were wrongfully denied, delayed, or terminated, the county will make retroactive benefits available to the head of the household through forward adjustment in the shortest time possible by reducing current purchase requirements where
- (1) the head of the household or person acting as his representative has requested a fair hearing within the time period specified in Section 63-408.31 on or after July 31, 1972,
 - (2) the household is determined by the fair hearing process to be entitled to food stamp benefits wrongfully delayed, denied or terminated, and (3) the head of the household is currently certified to participate in the program.

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FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING

APR 26 1974

Office of Administrative Hearings

ENDORSED

APPROVED FOR FILING

(Gov. Code 11360.2)

APR 26 1974

Office of Administrative Hearings

Copy below is hereby certified to be a true
and correct copy of regulations adopted, or
amended, or an order of repeal by:

Department of Benefit Payments

(Agency)

Dated: Apr 26, 1974

By: David B. Swope

Director

(Title)

ENDORSED

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Benefit Payments hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

FINDING OF EMERGENCY

The implementation of the following regulation is an emergency measure necessary for the immediate preservation of the public health, safety, and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code:

Amend: Section 63-408.5

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CONTINUATION SHEET
FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

63-408 COMPLAINTS, APPEALS AND FAIR HEARINGS (Continued)

63-408

- .521 In those instances in which a conference held in accordance with Section 63-408.23 results in a decision favorable to the household and the household requests a fair hearing, the matter will be heard by the state-designated hearing official as expeditiously as possible. Retroactive benefits shall then be made available to the head of the household as soon as administratively possible if the household is eligible in all other respects, and if at the hearing the hearing official concurs in the conference decision and determines that the head of the household and the county are in agreement as to the household's retroactive eligibility and no issue exists. In such case the hearing official will dismiss the case and render no formal decision. If the hearing official determines that a dispute does still exist, the hearing official will take evidence on the issues and the Director of the Department of Benefit Payments will issue an adopted decision on the matter.
- .522 With respect to households which have requested a fair hearing on or after July 31, 1972 as specified in Section 63-408.31, and which are determined by the fair hearing process to be entitled to food stamp benefits wrongfully delayed, denied, or terminated, but which are not currently certified to participate in the program, ~~the counties will~~ make such retroactive benefits available to the head of the household only when the head of the household again becomes currently certified for Food Stamp Program participation under normal certification procedures.
- .523 Where there is no current certification or a zero purchase requirement, a credit of retroactive benefits will continue to exist to the claimant who was wrongfully denied food stamp benefits. When the claimant is again certified to participate in the Food Stamp Program above the zero purchase requirement level within this State, the county shall then make retroactive benefits available to the claimant pursuant to Section 63-408.52.
- .524 In no event shall the county make retroactive benefits available to any head of household who is not currently certified as eligible to participate in the Food Stamp Program.

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CONTINUATION SHEET
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(Pursuant to Government Code Section 11380.1)

63-408 COMPLAINTS, APPEALS AND FAIR HEARINGS (Continued)

63-408

- .525 The method by which the county shall make retroactive benefits available to households entitled thereto under Section 63-408.52 is through reduction of the currently certified head of household's purchase requirement so that the reduction(s) will, in the shortest time possible, equal the amount of benefits lost.
- .526 When an ATP card or equivalent with a reduced purchase requirement is made available to a household pursuant to .525 above, the reduction in purchase requirement reflected on the card shall be considered retroactive benefits made available to the household regardless of whether the head of household or authorized representative chooses to avail himself of food stamp benefits pursuant to the ATP card or equivalent made available to him.
- .527 The county welfare department shall record the foregoing lost benefit transaction(s) in the case file of each household receiving or entitled to receive retroactive benefits.
- .528 The county shall submit directly to FNS-Western Region Office, with a copy to DBP-PIB, a monthly report which itemizes the amount of benefits that have been restored. This report is to be received by FNS-WRO within twenty (20) days after the end of each reporting month and must contain the following information:

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